

7/13
ves
8-60

Please amend the subject application as follows:

In the Claims:

Please cancel claims 27-89, 95-98, 104-120 and 122-134 without prejudice to applicants' right to pursue the subject matter thereof in a future continuation or divisional application and subject to consideration of applicants' request to examine Groups I and II on the merits in the instant application.

REMARKS

Claims 1-134 were pending in the subject application. In response to the Examiner's restriction requirement and in order to expedite the prosecution the instant application, claims 27-89, 95-98, 104-120 and 122-134 have been cancelled hereinabove without prejudice, but subject to consideration of applicants' request to examine Group I and Group II together on the merits in the instant application. No issue of new matter is raised by this Amendment, and therefore, entry of this Amendment is requested.

In the May 6, 2002 Restriction Requirement, the Examiner stated that restriction to one of the following inventions is required under 35 U.S.C. §121:

- | | |
|-----------|---|
| Group I | Claims 1-26, 90-94, 99-103 and 120-121 drawn to a cosmetic composition comprising bioactive glass and a substantially anhydrous cosmetic formulation and method of making a cosmetic composition; |
| Group II | Claims 27-40, 95-98 and 104-107 drawn to a cosmetic composition comprising bioactive glass, a cosmetic formulation and a buffer and a method of making a cosmetic composition; |
| Group III | Claims 41-42, drawn to a non-irritating, stable cosmetic composition comprising bioactive glass and a cosmetic formulation and a method of making a non-irritating, stable cosmetic composition; |

- Group IV Claims 43-44, drawn to a non-irritating, stable cosmetic composition comprising bioactive glass and a cosmetic formulation and a method of reducing and/or preventing skin irritation;
- Group V Claims 45-46, drawn to an odor reducing cosmetic composition comprising bioactive glass and a cosmetic formulation and a method of reducing odor.
- Group VI Claims 47-55 and 108-109, drawn to a UV filtering cosmetic composition comprising bioactive glass and a cosmetic formulation and a method of blocking UV light from exposed skin;
- Group VII Claims 56-58, drawn to a moisture-absorbing cosmetic composition comprising bioactive glass and a cosmetic formulation;
- Group VIII Claims 59-68 and 122-123, drawn to a personal care composition comprising bioactive glass and a personal care product and method of making a personal care composition;
- Group IX Claims 69-70, drawn to a non-irritating, stable personal care composition comprising bioactive glass and a personal care product and method of making a non-irritating, stable personal care composition;
- Group X Claims 71-72, drawn to an odor-reducing personal care composition comprising bioactive glass and a personal care product and a method of reducing odor;
- Group XI Claims 73-82 and 110-111, drawn to a UV-filtering personal care composition comprising bioactive glass and a personal care product and a method of blocking UV light from exposed skin;
- Group XII Claims 83-85, drawn to a moisture-absorbing personal care composition comprising bioactive glass and a personal care product and method of absorbing moisture;
- Group XIII Claims 86-89 and 112-119, drawn to a hair care composition comprising bioactive glass and a hair care product; and

Group XIV Claims 124-134, drawn to a nutritional supplement composition comprising bioactive glass and a nutritional supplement and a method of making a nutritional supplement.

In response to the restriction requirement applicants hereby elect with traverse Group I, which includes claims 1-26, 90-94, 99-103 and 120-121.

However, applicants respectfully request that Group I and Group II (which includes claims 27-40, 95-98 and 104-107), be examined on the merits together. During a May 2002 telephone conference between Examiner Sheikh and applicants' representative, the examination of these two groups together on the merits was discussed and Examiner Sheikh indicated that she would consider applicants' request upon receiving a written response to the Restriction Requirement. Applicant's representative wishes to express his appreciation for the courtesy extended to him by Examiner Sheikh during that telephone conference.

Applicants respectfully submit that the claims of Group I and II are all related to the same subject matter. In view of the relationship between these groups, applicants maintain that examination of Group II along with elected Group I would not impose an undue burden on the Examiner. In particular, a search for art related to the compositions and methods of Group I would reveal art related to the compositions and methods of Group II. Accordingly, to require the filing of a separate divisional application directed to Group II would result in the very same search being repeated. Such duplicate effort would be inefficient to the operation of the Patent and Trademark Office. Furthermore, it is likely that the same Examiner would be in charge of the divisional application, but since the divisional application would be examined at a later date, the Examiner would have to conduct a duplicate, redundant search for the divisional application. Moreover, as a result of the GATT legislation limiting the term of a patent to twenty years from

its effective filing date, the delay in the examination of the non-elected claims likely would result in the patent term for these claims being unnecessarily shortened.

Therefore, since the outcome of the present restriction requirement would be to delay the examination of the Group II claims, resulting in inefficiencies and unnecessary expenditures by applicants, and since a single search can be performed for all claims in Group I and II without any significant burden on the Patent Office, applicants respectfully request reconsideration and at least partial withdrawal of the restriction requirement so that Groups I and II will be examined on the merits together in the instant application.

If a telephone interview would be of assistance in advancing the prosecution of this application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

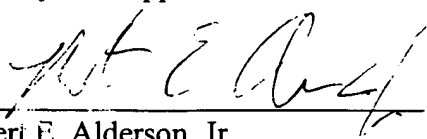
No fee, other than the enclosed \$110.00 fee for a one-month extension of time, is believed to be necessary in connection with the filing of this Amendment. However, if any additional fee is required, the Commissioner is hereby authorized to charge such fee(s) to Deposit Account No. 50-0540.

Early and favorable examination on the merits is respectfully requested.

Respectfully submitted,

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Attorneys for Applicants

Dated: June 28, 2002

By: 
Robert E. Alderson, Jr.
Reg. No. 44,500
(212) 715-7697